

**V. REMARKS**

Claims 1, 2, 4-7 and 17 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out in distinctly claimed a subject matter of the invention. Claims 1 and 17 are amended as shown above to obviate the rejection. Withdrawal of the rejection is respectfully requested.

Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 103(a) as unpatentable over Guheen et al. (U.S. Patent Application Publication No. 2004/0107125) in view of Roerick. (U.S. Patent Application Publication No. 2002/0097715), McKinney et al. (U.S. Patent Application Publication No. 2005/0188009) and McGarry (U.S. Patent No. 6,038,491). The rejection is respectfully traversed.

Guheen discloses a computer-implemented system and method for identifying alliances among a plurality of components in a network. The computer-implemented system is adapted for automatically dispensing information, goods and services to a customer on a self-service basis including a central data processing center in which information on services offered is stored. Self-service information sales terminals are remotely linked on-line to the central data processing center and are programmed to gather information from prospective customers on goods and services desired, to transmit to customers information on the desired goods or services from the central data processing center, to take orders for goods or services from customers and transmit them for processing to the central data processing center, to accept payment, and to deliver goods or services in the form of documents to the customer when orders are completed. The central data processing center is also remotely linked to institutions, such as insurance companies, serviced by the system to keep the institution updated on completed sales of services offered by that institution. As noted, the terminals in this system are on-line with the central data processing center.

Roerick discloses a message format for communicating financial information. A transmission message has a fixed terminal information segment with a field defining the format of a variable field authorization segment and with a field defining the format of a variable field service payload segment. The fixed

terminal information segment has other fields defining parameters of a terminal from which the transmission message is transmitted. The authorization segment has fields defining a method of payment by a user of the terminal. The service payload segment has fields defining the goods or services desired to be purchased by the user.

McKinney teaches a highly-availability parallel processing server that utilizes a scalable building-block architecture. The building-block design reduces development efforts due to block reuse in related architecture designs.

McGarry teaches a monitoring and reporting system using cellular carriers. A vending machine capable of communicating with a central station using any one of multiple cellular carriers includes a telemetry device. The telemetry device includes a cellular transceiver, a digital signal processor-based modem, and memory storing software corresponding to protocols for each of the cellular carriers. The telemetry device can be reconfigured, in response to signals received from the central station using a first one of the cellular carriers, to transmit and receive signals subsequently using a second one of the cellular carriers. Software code residing in memory associated with a sub-unit of a vending machine can also be upgraded or otherwise modified by transmitting segments of software code from a remote station to a telemetry device in the vending machine using a cellular carrier, assembling the segments of software code in the telemetry device, and routing the assembled software code to a designated one of the sub-units of the vending machine.

Claim 1 is directed to a network based self-help system, constructed by a network communication system connecting a network management center and a plurality of customer terminals. The network management center in the system is comprised of hardware portions including a network center server, auxiliary PCs or an embedded operation system, network equipment including network cards in server and network cables and software portions including an information data database, a network management database, an electronic business database, management software, encrypt key authentication and an information safety software package including a firewall or VPN system. The customer terminal is

comprised of a customer terminal host and a plurality of customer terminal slaves. The customer terminal slaves are chosen according to the requirements of a local user and are composed with a plurality of terminal server cabinets constructed in a building block architecture and providing different service items and contents. The network communication system is comprised of the Internet, a wired or wireless local area network and computer buses.

Claim 1 recites that each customer terminal slave and each customer terminal host are in communication with the network management center with the plurality of customer terminal slaves providing a variety of items including merchandise and information for purchase by a customer and with the plurality of customer terminal slaves including a customer terminal slave information dispenser and a customer terminal merchandise dispenser. Claim 1 recites that the customer terminal host has a host panel with the host panel including a touch screen display operative for displaying messages or providing information to a customer, a keyboard for inputting data into the customer terminal host, a paper exit for dispensing printed paper from a printer contained with the customer terminal host, at least one card exit, at least one ticket exit, an IC card reader or a magcard reader, a small change machine for dispensing coins and payment means for payment of a selected one of the variety of items purchased, the payment means including a paper currency receiver for receiving paper currency from a customer and a card receiver for receiving value storing cards or value adding cards.

Additionally, claim 1 recites that, when the customer selects information as the selected one of the variety of items for purchase and one of the payment means, the customer terminal host creates an information service request and transmits the information service request to the network management center, the network management center extracts corresponding information from the information database and returns the corresponding information to the customer terminal host, the customer terminal host then performs payment settlement according to the selected payment means and the customer terminal slave information dispenser provides the information to the customer.

Additionally, claim 1 recites that, when the customer selects merchandise as a selected one of the variety of items for purchase and one of the payment means, the customer terminal host creates real time terminal messages including terminal information data about merchandise stored and available to the customer at the customer terminal slave, a request for the merchandise and an amount of currency remaining at the customer terminal host, the customer terminal slave transmits the terminal information data to the network management center for modification of the network management database based upon the terminal information data, the network management database sends a result to the customer terminal host, the customer terminal host settles payment according to the selected one of the payment means and the selected merchandise is dispensed to the customer from the customer terminal slave corresponding to the selected merchandise.

Furthermore, claim 1 recites that, when the customer selects the card receiver for receiving value adding cards as payment means, the customer terminal host modifies value adding card information and sends the modified value adding card information to the network management center, the network management center correspondingly modifies data in the electronic business database and sends a result to the customer terminal host, the customer terminal host then settles payment and the selected one of the items for purchase is dispensed to the customer at the corresponding customer terminal slave.

In rejecting claims under 35 U. S. C. 103, the United States Patent and Trademark Office bears the initial burden of presenting a *prima facie* case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. "A *prima facie* case of obviousness is established if the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." In re Bell, 991 F.2d 781, 782, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993) quoting In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (CCPA 1776). The mere fact that the prior art *may* be modified in the manner suggested by the Examiner

neither makes the modification *prima facie* obvious or obvious unless the prior art suggested the desirability of the modification. The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. The conclusion that the claimed subject matter is obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led the individual to combine the relevant teachings of the references to arrive at the claimed invention. If the Examiner fails to establish a *prima facie* case of obviousness, the rejection is improper and will be overturned.

It is respectfully submitted that there must be motivation for one skilled in the art to combine the teachings of the references, i.e., a basis in the art for combining or modifying references. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

The motivation presented by the United States Patent and Trademark Office is derived from the claimed invention, not the applied art. Based upon the benefits of the claimed invention, the United States Patent and Trademark Office improperly establishes motivation because it is found in the claimed invention and not in the applied art. The United States Patent and Trademark Office must show motivation to combine the applied art in view of the applied art themselves, not by showing the benefits of the claimed invention itself. The United States Patent and Trademark Office fails to establish why one of ordinary skill in the art would combine the teachings of the four (4) cited references to arrive at the claimed invention.

MPEP 2143.01 states that the prior art must suggest the desirability of the claimed invention. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary

skill in the art. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

It is respectfully submitted that the Examiner fails to identify a persuasive suggestion to combine the teachings of the references. **"Identification in the prior art of each individual part claimed is insufficient to defeat patentability to the whole claimed invention."** In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1316 (Fed. Cir. 2000) (citing In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457 (Fed. Cir. 1998)). "Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." Id., 55 USPQ2d at 1316 (citing In re Dance, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998) and In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). "The range of sources available, however, does not diminish the requirement for actual evidence. That is, the showing must be clear and particular. See, e.g., C.R. Bard, 157 F.3d at 1352, 48 USPQ2d at 1232. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" Id., 50 USPQ2d 1576 at 1617 (citing McElmurry v. Arkansas Power & Light Co., 995 f.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) and In re Sichert, 566 F.2d 1154, 1164, 196 USPQ 209, 217 (CCPA 1977).

Thus, it is respectfully submitted that the United States Patent and Trademark Office fails to properly establish any motivation for one of ordinary skill in the art to combine the features of the applied art to arrive at the claimed invention. To the contrary, the motivation asserted by the United States Patent and Trademark Office is actually found in the claimed invention.

The conclusion that the claimed subject matter is obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led the individual to combine the relevant teachings of the reference to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Examiner may not, because of doubt that the invention is

patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968).

Furthermore, the present invention is a combination invention. So, for a single technical feature, one of the reference documents might be similar to it. However, the combination of all the technical features produces unexpected effects, which could not be obtained by one of ordinary skill in the art without expending creative labor.

In view of the above, it is respectfully submitted that claim 1 is allowable over the applied art.

Claims 2, 6 and 7 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as unpatentable over Guheen, Roerick, McKinney and McGarry in view of Rademacher (U.S. Patent No. 5,450,938). The rejection is respectfully traversed.

Rademacher discloses a card or cash actuated vending machine. A bank of vending machines has an associated debit card reader or vend card reader, with its associated card reader controller. The card reader controller interfaces between the money handling mechanism of one or more of the vending machines, and the vending machine controller circuitry. The vending machine controller does not connect directly to the money accepting or change making equipment. As an incentive to stimulate card purchases rather than cash purchases, the card reader controller can credit the card holder with bonus points when purchases are made. These can be discounts and added directly into the card purchase credit balance, or can be bonus points to be recorded in a separate field on the vend card, and separately redeemed.

Claims 4 and 5 depend from claim 1 and include all of the features of claim 1. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reason claim 1 is allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Claim 17 is rejected under 35 U.S.C. 103(a) as unpatentable over Guheen in view of Roerick, Schanin (U.S. Patent Application Publication No. 2004/0000154), Rademacher and McGarry. The rejection is respectfully traversed.

Schanin reveals a refrigerated vending machine for dispensing items such as soda cans or other beverage containers that includes a power source and a cooling system.

It is respectfully submitted that claim 17 is allowable for the reasons set forth above for claim 1.

Withdrawal of the rejection is respectfully requested.

Further, Applicants assert that there are also reasons other than those set forth above why the pending claims are patentable. Applicants hereby reserve the right to submit those other reasons and to argue for the patentability of claims not explicitly addressed herein in future papers.

In view of the foregoing, reconsideration of the application and allowance of the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the

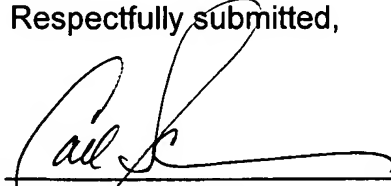


same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

Date: December 13, 2006

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Enclosure(s):       Amendment Transmittal

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